



To: Honorable Mayor and City Council Members  
From: Wendell K. Willard, City Attorney  
Date: For Submission onto the May 16, 2017 City Council Work Session Agenda  
Agenda Item: City of Sandy Springs Ordinance – Article IX Precious Metal Dealers

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**Background:**

The City of Sandy Springs has been approached by an entity wishing to relocate within the City whose primary business is the purchasing of luxury goods (mostly watches) from individual sellers throughout the country and reselling these items. All of which is conducted online.

Currently, the only Ordinance potentially applicable to such a business would be Article V. - Pawnshops, Pawnbrokers, Junk And Secondhand Dealers. Under this Ordinance the subject business could be addressed as a pawnshop/pawnbroker. However, due to the online nature of the business many of the requirements, such as collecting sellers' photos and fingerprints, would be impractical for such a business.

In the alternative, if such a business was to be permitted as a secondhand dealer, several of those provisions point back to pawnbrokers thereby identifying the business as a pawnbroker under Georgia law which would drastically increase cost and the complexity of compliance.

After reviewing Georgia law on the subject matter, as well as the City of Atlanta's version of a Precious Metal Dealer ordinance, we have drafted the attached Ordinance for your consideration. This Precious Metal Dealers Ordinance includes strong requirements for record keeping and reporting to the police department.

Additionally, this new Ordinance would not apply to any precious metals or goods containing precious metals from industrial producers, manufacturers, dealers or distributors and would remove the requirements of Article V from those licensed precious metal dealers engaged in the purchase and sale of precious metals or goods containing precious metals. Thus, making this Ordinance potentially beneficial to those businesses which advertise the buying of gold and silver.

**Recommendation:**

Approval of the Ordinance entitled Article IX – Precious Metal Dealers

**Discussion:**

The proposed Ordinance has been reviewed by Sandy Springs Police.

**Alternatives:**

**RESOLUTION NO. 2017-06-XX**

**STATE OF GEORGIA  
COUNTY OF FULTON**

**A RESOLUTION TO AMEND CHAPTER 6 OF THE CODE OF ORDINANCES  
OF THE CITY OF SANDY SPRINGS**

**WHEREAS**, the City of Sandy Springs (the "City") wishes to permit the buying and selling of precious metals or goods containing precious metals by industrial producers, manufacturers, dealers or distributors;

**WHEREAS**, the City wishes to regulate the conduct and activities of precious metals dealers in order to reduce and curtail the criminal activities frequently engendered by such businesses; to aid the city police department in detection and prevention of criminal conduct; and to ensure fair dealing between a precious metals dealer and customers;

**WHEREAS**, the City Council has determined that a Precious Metal Dealers license be authorized upon application and payment of applicable fees for businesses defined as any person or entity who, exclusively or as incidental to or in connection with any other business, is engaged in the business of purchasing precious metals or goods made from precious metals from persons or sources other than industrial producers, manufacturers or licensed dealers; and,

**WHEREAS**, the City has further determined that the provisions of Chapter 26, Article V do not apply with respect to the purchase and sale of precious metals or goods containing precious metals by such licensed precious metals dealer;

**NOW, THEREFORE**, in order to accomplish the foregoing, the Mayor and City Council of the City, pursuant to their authority, do hereby amend Chapter 6, to add Article IX -Precious Metal Dealers, Sec. 26-296 thru 26-304 as attached hereto.

**BE IT RESOLVED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Approved:

\_\_\_\_\_  
Russell K Paul, Mayor

Attest:

\_\_\_\_\_  
Michael Casey, City Clerk  
(Seal)

## **ARTICLE IX. PRECIOUS METALS DEALERS**

### **Sec. 26-296. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Chief of police* shall mean the chief of the Sandy Springs police department.

*Precious metals* means any gold, silver, or platinum or any alloy containing gold, silver, or platinum.

*Precious metals dealer* means any person or entity who, exclusively or as incidental to or in connection with any other business, is engaged in the business of purchasing precious metals or goods made from precious metals from persons or sources other than industrial producers, manufacturers or licensed dealers.

### **Sec. 26-297. Applicability.**

- (a) This article is intended to regulate the conduct and activities of precious metals dealers in order to reduce and curtail the criminal activities frequently engendered by such businesses; to aid the city police department in detection and prevention of criminal conduct; and to ensure fair dealing between a precious metals dealer and customers.
- (b) Sections 26-298 - 26-301 shall not apply to any precious metals or goods containing precious metals from industrial producers, manufacturers, dealers or distributors.
- (c) The provisions of Chapter 26, Article V shall not apply with respect to the purchase and sale of precious metals or goods containing precious metals by such licensed precious metals dealer.

### **Sec. 26-298. Records required.**

- (a) Every precious metals dealer shall maintain a book, in permanent form, in which shall be entered in legible English at the time of each purchase of precious metals or goods containing precious metals, the following information:
  - (1) The date of the purchase transaction.
  - (2) The name of the person making the purchase from the seller.
  - (3) The name, age and address of the seller of the items purchased; the number from such seller's driver's license or other similar identification; and for transactions conducted in person at the location of the precious metals dealer, a description of the general appearance of such seller or a photograph of the seller.
  - (4) An identification and description of the purchased goods, including the serial numbers, model numbers or other numbers, and any identifying marks inscribed therein.
  - (5) The price paid for the precious metals or goods containing precious metals purchased by the seller.
  - (6) The number of the check issued for the purchase price, if payment is made by check.
  - (7) The signature of the seller, which may be in electronic form.

- (b) The permanent record book required in this section shall be maintained for each purchase of precious metals or goods for a period of four years.
- (c) Entries shall appear in chronological order in ink. No blank lines may be left between the entries. No obliterations, alterations or erasures may be made. Corrections shall be made by drawing a line of ink through the entry without destroying its legibility. The book and all precious metals and goods containing precious metals shall be open to the inspection of any duly authorized law enforcement officer during the ordinary hours of business or at any reasonable time.

#### **Sec. 26-299. Daily report to police.**

- (a) Subject to subsection (b) below, every precious metals dealer shall make a daily report in writing to the police department of all precious metals or goods containing precious metals purchased during the 24 hours ending at 8:00 p.m. on the date of the report. The reports shall be on forms or on duplicate invoices as may be prescribed or approved by the police department. The reports shall be typewritten and mailed or delivered to the police department prior to 10:00 a.m. on the day following the date of the report. In addition to any other information required by the police department, the reports shall include the name and address of the precious metals dealer, date of transaction, description and amount of the precious metals or goods containing precious metals purchased and the name and address of the person from whom purchased.
- (b) In lieu of complying with subsection (a) above, a precious metals dealer may enter each transaction, including all information required in subsection (a) of Sec. 26-298, into an electronic automated reporting system approved by the police department, or upload electronically, a batch file of all transactions for each business day, to an administrator of the electronic automated reporting system approved by the police department, at the conclusion of each business day. The administrator of the electronic automated reporting system will electronically transmit all transactions to the police department.
- (c) The police department may promulgate rules and regulations consistent with this section to require the proper enforcement of this section.

#### **Sec. 26-300. Time period for retention.**

After the purchase or receipt of any precious metals or goods containing precious metals, every precious metals dealer shall retain upon the licensed premises or in a sealed vault off the premises, provided such a precaution is necessary for safekeeping, all such precious metals or goods containing precious metals purchased or received, and shall not alter the original form, shape or condition of such metals or goods, for the shorter of (a) 30 days, or (b) the period of time required under O.C.G.A. § 43-37-6(a)(6) (as amended, supplemented, or replaced), if, and only if, a precious metals dealer complies with subsection (b) of Sec. 26-299 with respect to the reporting of such precious metals or goods containing precious metals purchased or received. If the chief of police has probable cause to believe any goods are stolen, the chief of police may give notice in writing to the precious metals dealer not to sell such goods for an additional 15 days, and the precious metals dealer shall retain such goods in accordance with the terms hereof during such period.

### **Sec. 26-301. Unlawful activities.**

It shall be unlawful for any precious metals dealer or any agent or employee of a precious metals dealer who makes purchases of precious metals or goods containing precious metals to:

- (1) Fail to maintain and make entries in the permanent record book as required by section 26-298;
- (2) Make any false entries therein;
- (3) Falsify, obliterate, destroy or remove from the place of business such permanent record book;
- (4) Fail to submit daily reports as required in section 26-299;
- (5) Refuse to allow a duly authorized law enforcement officer to inspect such permanent book or any precious metals or goods containing precious metals in such dealer's possession;
- (6) Purchase any precious metals or goods containing precious metals commonly branded with a serial number, upon which the number has been mutilated or altered other than as a result normal wear and tear; or
- (7) Buy or receive any property from any person less than 17 years of age, provided that any precious metals dealer who obtains and retains a copy of accepted identification shall not be subject to this provision.

### **Sec. 26-302. Registration Required.**

- (a) No person or entity shall engage in business as a precious metals dealer until such person or entity has registered as a precious metals dealer for each separate place of business as provided herein. The registration shall be in writing and shall be sworn to or affirmed by the precious metals dealer. The dealer shall register with the chief of police of the city. The chief of police shall forward a copy of the registration to the sheriff of Fulton County within 7 days of registration.
- (b) The registration shall contain the name, address, and age of precious metals dealer, together with the names, addresses and ages of all other persons having an ownership interest in the business.
- (c) No person shall be eligible to register as a precious metals dealer if any employee or stockholder, other than stockholders owning less than ten percent of the outstanding shares of a publicly held corporation, has been convicted of a felony under the laws of this state or any other state or the United States. This provision shall not apply to any person who has been convicted of a felony after ten years have expired from the date of completion of the felony sentence.
- (d) All registrations shall contain the address of the premises upon which the business is conducted and the zoning and planning classification of the premises.
- (e) If the registrant is a corporation or partnership, the registrant shall submit a copy of the charter or a copy of the articles of partnership or similar document with the application.

- (f) Each precious metals dealer shall be required to notify the chief of police within seven calendar days of any change of address of the dealer or business or any change of ownership in the business. A copy of the change of address or ownership in the business shall be transmitted to the sheriff of Cobb County within seven days of the notification.
- (g) Each applicant for registration shall pay an initial registration fee of \$25.00 to be retained by the city to cover the cost of registering such persons. The registration shall be renewed annually by payment of a renewal fee of \$10.00.
- (h) Nothing in this article shall be construed so as to authorize any person to transact business as a precious metals dealer without a currently valid occupation tax certificate as required by chapter 54, article V, pertaining to business and occupation taxes.

#### **Sec. 26-302. Penalties for violation.**

Except as otherwise stated in this article, violations of this article shall be punished as provided in section 1-10.

#### **Sec. 26-303. Failure of Precious Metals Dealer Compliance.**

Any precious metals dealer operated, conducted or maintained contrary to any of the provisions of this article and the provisions of the laws of the state addressing and precious metals dealers and their business operations shall be declared to be unlawful and a public nuisance. The city may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or injunction thereof, in the manner provided by law and shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate or remove such precious metals dealer and restrain and enjoin any person from operating or conducting business as a precious metals dealer contrary to the provisions of this chapter. In addition, violation of the provisions of this article shall be, per se, grounds for suspension or revocation of an occupation tax certificate.

#### **Sec. 26-304. Background checks.**

All persons or businesses licensed by the city to deal in precious metals ("dealer") shall perform criminal background checks on all employees hired after the date of passage of the ordinance. The dealer shall maintain such background check records for a minimum period of at least five years after an employee leaves the dealer's employ. The dealer shall provide all information relevant to the criminal background checks on all new employees to the Sandy Springs Police Department within 30 days of the date of hire of said employee.